IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 5327 OF 2006

Pandharinath Babulal Wagh .... Petitioner

versus

The Executive Engineer,
P.W.D. Malegaon, Nashik & ors..... Respondent.

Shri P.M.Shastri for the petitioner
Shri S.K.Chinchalikar AGP for Respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 16TH APRIL, 2007

P.C.;

1. The petitioner was initially appointed as a cleaner in the year 1984. On completion of five years, he was taken on CRT as a cleaner. Belatedly in the year 2003, the petitioner filed a complaint ULP by contending that though he was appointed as a cleaner, he was made to work as a driver i.e. in a higher post. The labour court holding that the respondent has indulged in an unfair labour practice covered by item 5 of schedule IV of the MRTP & PULP Act has granted relief to the petitioner from the date of filing of the complaint. The present petition has been filed making a grievance in relation to the denial of the benefit from the date on which the right had accrued to the petitioner i,e. from 1989. The labour court has found that the effective grievance

was made only in the year 2003 and hence petitioner has been found to be not entitled to the benefits from the year 1989.

2. Perused the judgment and order passed by the Industrial court. The reason for granting benefit from the date of filing of the complaint cannot be termed as patent illegality. Hence no interference in the judgment and order passed by the Industrial court is called for.

3. The learned counsel for the petitioner has placed reliance on a judgment of the Apex Court reported in **AIR 1984 S.C. page 1527 in G.P Doval and others Vs. Chief secretary, Government of U.P. and others.** In para 16 of the judgment while dealing with an objection based on delay and latches, the Supreme Court has observed that the respondent themselves had not finalised the seniority list for more than 12 years and without finalising the same were operating the list for further promotion. In the facts of the said case, the Supreme Court has not entertained the objection touching the delay and latches, and the judgment does not deal with the question as to since when the relief is to be granted, depending upon the conduct of the employee. Hence said judgment does not advance the case of the petitioner any further. In

the result, the petition is summarily dismissed.

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